

17

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN WALTER, III, #430706

Plaintiff,

vs

MDOC OFFICER SHANK,

Defendant

Case: 2:22-cv-10821

Assigned To : Berg, Terrence G.

Referral Judge: Grand, David R.

Assign. Date : 4/11/2022

Description: PR WALTER V. SHANK (NA)
mag Judge:

JURISDICTION & VENUE

1) This is a Civil Action authorized by 42 U.S.C. §1983, to redress the deprivation, under Color of State Law, of rights secured by the Constitution of the United States. The Court has Jurisdiction under 28 U.S.C. § 1331 and 1343 (a)(3). Plaintiff seeks Declaratory relief pursuant to 28 U.S.C. 2201 and 2202. Plaintiff claims/laims thus, relief are authorized by U.S.C. § 2283-84 and Rule 65 of the Federal Rules of Civil procedures.

2) I, John walter's III, files this Suit and Venue is appropriate under 28 U.S.C. §1391 (b)(2) because it is where events given rise to this claim occurred."

PLAINTIFF:

3) I John Walters, III is and was at all times relevant hereto, a prisoner of the State of Michigan, in the Custody of the Michigan Department of Correcions Plaintiff is currently confined at(JCS) Cooper Street Correctional Facility, 3100 Cooper st Jackson,

Michigan 49201."

DEFENDANT:

4) John Doe Shank, is a Michigan Dept. of Corrections Officer who, at all times mentioned herein, held the rank of a Corrections Officer, and was assigned to the Cooper Street Correctional Facility, 3100 Cooper St Jackson, MI 49201

5) Defendant is being sued in his Individual Capacity At all times mentioned in this complaint did act under Color of State Law

FACTS:

6) It is alleged that while residing in Unit(D) at JCS, Plaintiff made a comment which was directed at a Fellow Inmate: "It's a shame the way certain inmates strut's around thinking their tough!" Defendant Shank of a sudden conducted a shake down only this was no ordinary shake down, it was done in retaliation with a typical set up ensuing because there after, Plaintiff was falsely accused of having had a Allen Rensch within his personal floor footlocker

7) A Major Class-I Misconduct was written against Plaintiff and he was immediately escorted to segregation via Non-bond Status

8) Note, there were no video footage to ensure that said contraband was indeed within Plaintiff's area of control, nor any photos to depict that said was indeed taken from plaintiff's area of control contrary to governing policy Directive 03 03 105; So it's also alleged that Defendant Shank clearly falsified MDOC Documents contrary to MDOC Job Descript."

9) Plaintiff did not immediately receive a Removal slip as mandated whenever any contraband is confiscated

10) Again, Defendant while having access to a security Camera ,

failed to take any required photo's which would have readily determined whether said had been within Plaintiff's personal footlocker and removed therefrom-this of course meant to safeguard against staff intentionally placing said deliberately within a prisoners area."

11) Plaintiff vehemently denies that C/O Shank ever found any contraband let alone an Allen rench "Plaintiff do hereby Swear under the pains and penalty of perjury that he never possessed an Allen rench."

12) Plaintiff availed himself to Stgep-I-III grievance Process thereby fully exhausting said Administrative Remedies, even contacted Adminsitators at Lansing-only to be told: Oh we're still investigating."

LEGAL CLAIMS:

13) Plaintiff re-alleges and incorporates by reference paragraphs(1-11) Assuming Plaintiff had said what Defendant believed him to have said, retaliation to this extent not only violate PD 03 03 130 but possibly Const Amend 1st "

14) Plaintiff has no plain, adequate or complete remedy at law to redress the wrongs describe herein Plaintiff has been and will continue to be irreparably injured by the conduct of Defendant, unless this Court grants the declaratory and injunctive relief which plaintiff seeks."

WHEREFORE, Plaintiff request that this Court enter Judgment, granting plaintiff:

15) A Declaratory that the acts and omissions described herein violated plaintiff right under the Constitution and laws of the

United States

16) An Injunction Permanently barring defendant from further set ups or any retaliatory acts against your Plaintiff

17) Compensatory damages in the amount of \$35,000 against named defendant

18) Punitive Damages in the amount of: \$65,000 along with Nominal Fees as this Court deems Appropriate "

19) A Jury Trial on all Triable issues so triable by a Jury."

20) Plaintiff's Costs for having to bring this Suit "

21) Any additional relief this court deems just, proper, and equitable."

Respectfully Submitted.

/s/ John R. Walter III

STATEMENT OF VERIFICATION:

Plaintiff having read all of the foregoing so stated within the aforesaid Complaint, and hereby verify that the matters so alleged therein are true, except as to matters alleged on information and belief, as to those, I believe them to be true I certify under Penalty of Perjury that the foregoing is true and correct

executed on; this 4, of April, 2022

/s/ John R. Walter III

ORIGINAL

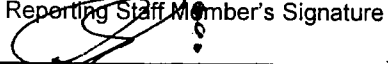



"EXHIBITS IN CHRONOLOGICAL ORDER"

MICHIGAN DEPARTMENT OF CORRECTIONS

MISCONDUCT REPORT

CSJ-228

10/10 4835-3228

Prisoner Number: 430706	Prisoner Name: Walter	Facility Code: JCS	Lock: D-25	Violation Date: 8-19-2021
Time and Place of Violation: 19:44 Footlocker 430706 under Bunk D-25		Contraband Removal Record Provided to Prisoner? <input checked="" type="checkbox"/> Yes Date 8/19/2021 <input type="checkbox"/> N/A		
Misconduct Class: <input checked="" type="checkbox"/> I <input type="checkbox"/> II <input type="checkbox"/> III Charge(s): Possession of Dangerous Contraband				
Describe Violation (If contraband involved, describe in detail; identify any other employee witnesses): During a routine shakedown of prisoner Walter's locked footlocker #430706 I discovered a two inch allen wrench concealed inside a coffee cup. Prisoner Walters footlocker was located directly under his bunk D-25. The tool is an item needing to be strictly controlled therefore this fall under PD 04.04.120 Tool Control. At no time did prisoner Walter had staff authorization to have this tool in his area of control. Contraband has been photographed and secured in the JCS evidence locker pending further investigation.				
Prisoner Walter #430706 was Identified by state ID and unit roster.				
Reporting Staff Member's Name (Print) CO Shank		Reporting Staff Member's Signature 		Date and Time Written 8-20-2021 11:00am
REVIEW				
Location/Verification/Condition of Evidence:				
Elevated to Class I at review: <input type="checkbox"/> No <input type="checkbox"/> Yes If "yes", explain reason:				
COMPLETE THIS SECTION ONLY FOR REVIEW OF CLASS I MISCONDUCT				
Status Pending Hearing: <input type="checkbox"/> Bond <input type="checkbox"/> Segregation <input checked="" type="checkbox"/> Confinement to Cell/Room <input type="checkbox"/> Other				
Reason if Non-Bond: <input checked="" type="checkbox"/> Non-Bond List <input type="checkbox"/> Bond Revoked (must give reason)				
Date and Time Given this Status: 8-19-21 0945		Who Notified in Housing Unit of Status: JCS		
Hearing Investigator Requested? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes		Witnesses Requested? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Relevant Documents Requested? <input type="checkbox"/> No <input type="checkbox"/> Yes If yes, list:		If yes, list:		
Additional Comments: <i>in</i>		Prisoner Waives 24 Hour Notice of Hearing? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes Hearing Date: 8-22		
Reviewing Officer's Name (Print) <i>Det. [Signature]</i>		Reviewing Officer's Signature 		Review Date and Time 8-21-21 0745
I have received a copy of this report. My signature does not necessarily mean that I agree with the report. <input type="checkbox"/> Prisoner refused to sign. Copy given to prisoner.		Prisoner's Signature 		Date 8-21-21
WAIVER OF CLASS II OR III HEARING				
I understand I have a right to a hearing. I waive my right to a hearing and plead guilty to all charges. I also waive my right to appeal and accept the sanctions imposed.		Prisoner's Signature 		Date
SANCTIONS IMPOSED (Hearing Investigator enters begin and end dates for Class II misconducts)				
Days Top lock	Begins:	Ends:	<input type="checkbox"/> Counseling/Reprimand (Class III only)	
Days Loss of Privileges	Begins:	Ends:	<input type="checkbox"/> \$ _____ Restitution (Class II only)	
Hours Extra Duty	Begins:	Ends:		
Property Disposition If Applicable:				
Employee Accepting Plea and Imposing Sanction (Print)		Employee's Signature		Date
Hearing Investigator's Name (Print)		Hearing Investigator's Signature		Date

MICHIGAN DEPARTMENT OF CORRECTIONS
REQUEST FOR REHEARING

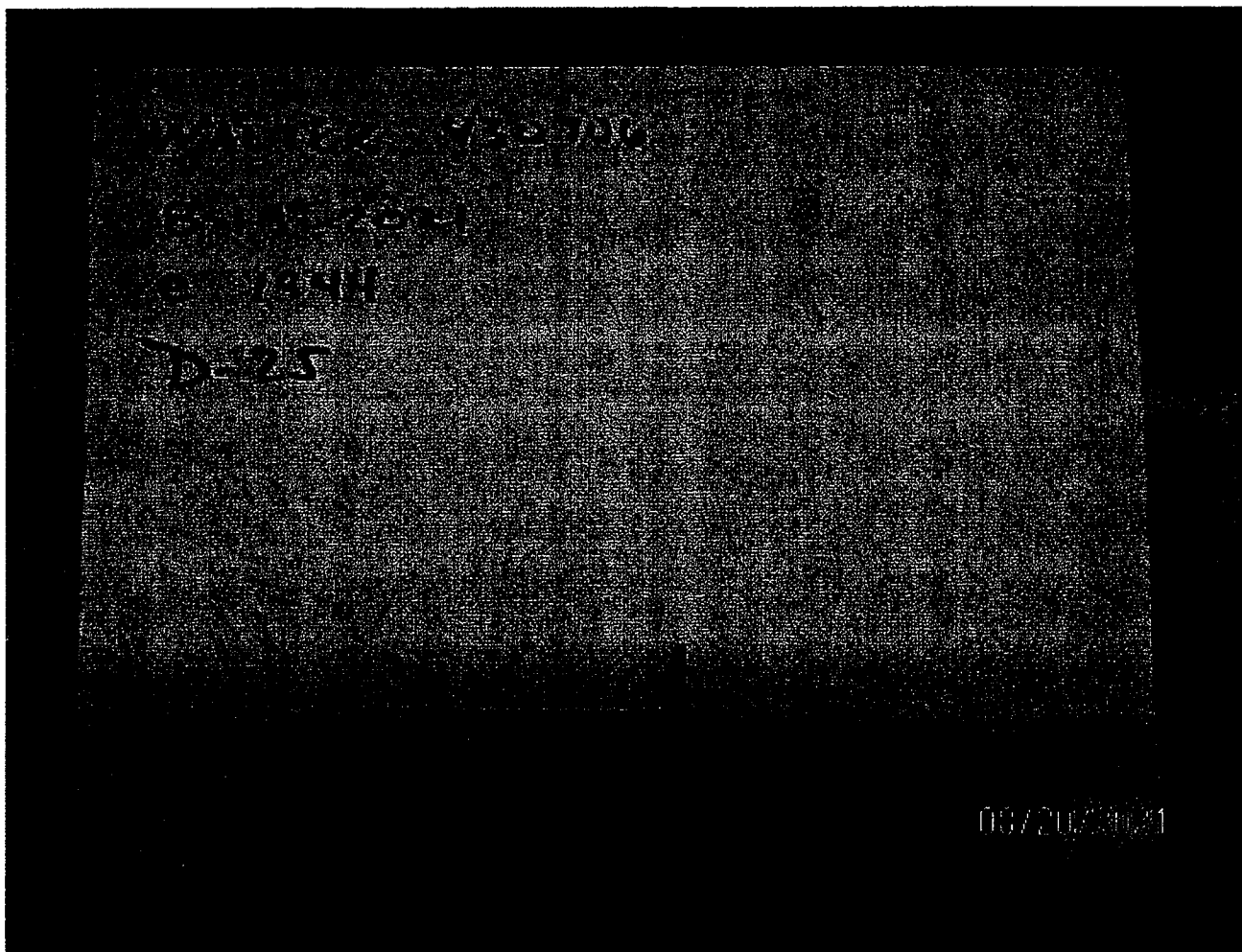
CSJ-418
 REV. 10/10
 4835-3418

INSTRUCTIONS

- This form is to be used only to request reconsideration of the decision of a hearing officer on one of the following:
 - Class 1 Misconduct.
 - Notice of Intent to Classify to Administrative Segregation.
 - Special designation which permanently denies Community Residential Program (CRP) placement.
 - Visitor restriction.
 - High or very high risk classification.
 - Excess legal property hearing.
 - Special Education Individual Education Planning Committee (IEPC) hearing.
- You MUST attach a copy of the hearing report to this request and, if appealing a misconduct hearing, a copy of the Class 1 Misconduct Report. If they are not attached, this form may be returned to you without a decision. You do not have to include a copy of the Hearing Investigation packet.
- Submit the completed form to: Hearings Administrator, Department of Corrections, Office of Legal Affairs, P.O. Box 30003, Lansing, Michigan 48909. This form must be received by the Hearings Administrator within 30 calendar days of the date of the decision by the hearing officer.

PRISONER'S NUMBER 430706	PRISONER'S NAME John Robert Walter III	INSTITUTION JCS
DATE OF MISCONDUCT 8/19/21	TYPE OF HEARING (IF MISCONDUCT, LIST CHARGES ALSO) Class 1 Misconduct	
DATE OF HEARING 8/30/21	- Possession of Dangerous Contraband	
Briefly explain why you believe a rehearing should be ordered: It is my belief that Hearings Officer Sutherland intentionally concealed facts necessary for a proper defense, was intentionally dishonest about facts on several occasions, and allowed the Misconduct report to stand as accurate when she knew this to be false. According to Sutherland's report on my due process, she states I have "The right to know what behavior is expected and what will be punished," yet I have never received a prisoner guidebook per PD 04.01.130. My hearing date was rescheduled from 8/22/21 to 8/30/21 and I never received my 24 hour notice of the new date. Officer Shank intentionally lied on Misconduct report. Proper evidence was not secured for proof of the claim of dangerous contraband. The alleged Allen wrench does not meet specific requirements set forth in policy to be classified as dangerous contraband. Hearings Investigator Flynn failed to ask all questions to officer Shank listed on Prisoners Personal Statement And Account of charges: Questions To Be Asked Witnesses.		
SIGNATURE OF PERSON REQUESTING REHEARING John Robert Walter III		DATE 9-5-21
<u>DECISION</u>		
<input type="checkbox"/> Disapproved		
<input type="checkbox"/> Approved - Rehearing Ordered		
<input type="checkbox"/> Returned without action - Not filed within 30 calendar days		
HEARINGS ADMINISTRATOR		DATE

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To: Grievance Coordinator

From: Walter 430706 D-25 D

RE: Grievance # JCS-21-09-0808-07D

On 10/20/21 I sent out a step III Grievance on the above Grievance number. I have yet to receive either a step III receipt or an answer on the step III. Can you please inform me on the status?

Thank You,

John R. Walters III

Step III is handled

through Lansing I

have no access to this

MICHIGAN DEPARTMENT OF CORRECTIONS
DISBURSEMENT AUTHORIZATION/CATALOG ORDER FORM

CAR-100
 4835-1100
 10/08

Prisoners write clearly-illegible/incomplete forms will not be processed.

Date: 10-20-21

Prisoner Number: 430706 Prisoner's Last Name: Walter Institution: JCS Lock Number: D-25

Pay To: JCS Mailroom

Cost/Amount

Address: _____

\$.53

Reason/Description: (If to relative, identify relationship) Step 3 grievance sent to:

Director's Office, PO Box 30003, Lansing MI 48909 (oversized mail)

COMPLETE THIS PORTION FOR CATALOG ORDERS ONLY

Page No.	Description of Item	Unit	Catalog Number	Color	Size	Qty	Unit Price	Total Price
	<u>1.002 .53</u>						\$	\$

John R. Walter III 430706
Cooper Street Correctional Facility
3100 Cooper St.
Jackson, MI 49201

Sub-Total \$ _____

Delivery Costs \$ _____

Tax (if applicable) \$ _____

Total Amount Enclosed \$ _____

Prisoner's Signature [Signature]

Date 10-20-21

Deputy Warden or Authorized Agent _____ Date _____

R.U.M. or Authorized Agent _____ Date _____

Warden or Authorized Agent _____ Date _____

Code Actual Expense Batch Number

Distribution: White-Business Office; Canary-Vendor; Pink-Property; Goldenrod-Prisoner

12/14/21

10: 111-Step Grievance Coordinator
Grandview Plaza Building
P.O. Box 30003
Lansing, MI 48909

f

"Status:

From: John R. Walter III, #430/06
Grievant
Cooper Street Correctional Facility
3100 Cooper St
Jackson, Michigan 49201

Griev Id #JCS-21-09-0808-07D

Sir:

Please note that, I mailed out the above reference step-111
Grievance Form on 10/20/21 and as of this date, have not
received a response.

Please apprise me regarding the nature for this ongoing delay?"

Your Prompt Response will be greatly appreciated."

Sincerely,

/s/ _____

Cc:
File "

MICHIGAN DEPARTMENT OF CORRECTIONS
PRISONER/PAROLEE GRIEVANCE FORM

4835-4247 10/94
CSJ-247A

Date Received at Step I _____ Grievance Identifier: _____

Name (print first, last)	Number	Institution	Lock Number	Date of Incident	Today's Date
John Walter III	430706	JCS	D-25	8/20/21	8-31-21

What attempt did you make to resolve this issue prior to writing this grievance? On what date? _____

If none, explain why.

8-21-21 talked to Sgt Dentmond
8-25-21 talked to Hearings Investigator Flynn
8-30-21 talked to Hearings Office - Sutherland

State problem clearly. Use separate grievance form for each issue. Additional pages, using plain paper, may be used. Four copies of each page and supporting documents must be submitted with this form. The grievance must be submitted to the Grievance Coordinator in accordance with the time limits of OP 03.02.130.

on 8-20-21 Officer Shank wrote a ticket against me stemming from a routine shakedown he performed on 8-14-21. Officer Shank claimed on said ticket that he had given me a Contraband Removal Record when in fact he did not. Officer Shank intentionally lied on the official Document. MDOC Security Footage will show that he never gave me the document. I don't it know that I am not grieving the ticket, I am grieving the lie he wrote on the ticket. I am in fear of any and all potential retaliation from stepping forth and reporting this incident.


Grievant's Signature

RESPONSE (Grievant Interviewed?) ☐ Yes ☐ No If No, give explanation. If resolved, explain resolution.)

Respondent's Signature _____	Date _____	Reviewer's Signature _____	Date _____
Respondent's Name (Print) _____	Working Title _____	Reviewer's Name (Print) _____	Working Title _____

Date Returned to Grievant: _____	If resolved at Step I, Grievant sign here. Resolution must be described above.	Grievant's Signature _____	Date _____
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DISTRIBUTION: White, Green, Canary, Pink — Process to Step One; Goldenrod — Grievant

MICHIGAN DEPARTMENT OF
CORRECTIONS

CSJ-247S 3/18/2019

STEP I GRIEVANCE RESPONSE SUPPLEMENTAL FORM

(Use if space on the CSJ-247A is insufficient for a full response by stating on the CSJ-247A "See attached CSJ-247S")

Prisoner Last Name:	Prisoner #:	Lock/Location:	Grievance #:
Walter	430706	D-025/JCS	JCS-21-09-0808-07D
Prisoner Interviewed:	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	If "NO", Reason:	
Extension Granted:	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	If "YES", Enter End Date:	If "YES", Enter End Date

COMPLAINT SUMMARY:

Prisoner Walter claims in the grievance that he did not receive a contraband removal for a misconduct he was given for dangerous contraband.

INVESTIGATION SUMMARY:

SGT Childers interviewed Officer Shank where Officer Shank was asked if he filled out a Contraband removal for the prisoner; he stated he had.



SGT Childers interviewed prisoner Walter 430706 in the Deputy Suite Conference Room on 9-12-2021 where he stated he did in fact receive a copy of his contraband removal.

APPLICABLE POLICY, PROCEDURE, ETC.

N/A

DECISION SUMMARY:

The prisoner's claims were false as he did in fact receive a copy of his contraband removal. No violation of policy directive, work rules violation, operating procedure and/or post order was detected, this grievance is being denied.

RESPONDENT NAME:	Sergeant Childers	TITLE:	CSS-1
RESPONDENT SIGNATURE:		DATE:	9/12/2021
REVIEWER NAME:	LT R. Gilbert	TITLE:	CSS-2
REVIEWER SIGNATURE:		DATE:	9-13-2021

Distribution: Original - Step I Grievance Coordinator Copies: -- 2 To Grievant (1 To Prisoner, 1 To Prisoner's Step II Filing)

MICHIGAN DEPARTMENT OF CORRECTIONS
PRISONER/PAROLEE GRIEVANCE APPEAL FORM

4835-4248 5/09
 CSJ-247B

Date Received by Grievance Coordinator
 at Step II: 9-21-21

Grievance Identifier: JCS 211 09 808 07A

INSTRUCTIONS: THIS FORM IS ONLY TO BE USED TO APPEAL A STEP I GRIEVANCE.

The white copy of the Prisoner/Parolee Grievance Form CSJ-247A (or the goldenrod copy if you have not been provided with a Step I response in a timely manner) **MUST** be attached to the white copy of this form if you appeal it at both Step II and Step III.

If you should decide to appeal the Step I grievance response to Step II, your appeal should be directed to: Prison
Card by 9-29-21. If it is not submitted by this date, it will be considered terminated.

If you should decide to appeal the response you receive at Step II, you should send your Step III Appeal to the Director's Office, P.O. Box 30003, Lansing, Michigan, 48909.

Name (Print first, last)	Number	Institution	Lock Number	Date of Incident	Today's Date
Walter	430706	JCS	D-25	8-20-21	9-24-21

STEP II — Reason for Appeal Sgt Childers intentionally refused to address the issue clearly stated on the grievance and refused to look at / review evidence proving my claim to be true. Sgt. Childers intentionally addressed an issue that was not on the grievance in an attempt to cover up for a co-worker. I am now in fear of retaliation from Sgt. Childers and request a REAL Investigation into this matter.

STEP II — Response

see the attachment

Date Received by
 Step II Respondent:

9-15-21

Respondent's Name (Print)

Respondent's Signature

Date

Date Returned to
 Grievant:

10-15-21

STEP III — Reason for Appeal All parties involved in the grievance process are refusing to address the issue stated on the grievance and refusing to look at evidence confirming claim on the grievance.

NOTE: Only a copy of this appeal and the response will be returned to you.

STEP III — Director's Response is attached as a separate sheet.

DISTRIBUTION: White — Process to Step III; Green, Canary, Pink — Process to Step II; Goldenrod — Grievant

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Step II Grievance Appeal Response

JCS 21 09 0808 07D

Name: Walter

Number: 430706

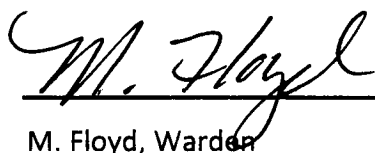
Lock: D-25

JCS

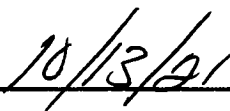
Your Step I Grievance, the response, and your reason for appeal have been reviewed.

Conclusion:

The Step I response has been reviewed by the Warden's Office in accordance with PD 03.02.130 "Prisoner/Parolee Grievances", and the response is considered Upheld at Step II.



M. Floyd, Warden



Date

ORIGINAL

March 22, 2022

UNITED STATES DISTRICT COURT
For The Eastern District Of Michigan
Office Of The Clerk
Theodore Lavin United States Courthouse
231 West Lafayette BLVD-Room 554
Detroit, MI 48226

RE: JOHN WALTER III, -vs- MDOC OFFICER SHANK

Case No.

Dist Judge:

mag. Judge:

Dear Clerk:

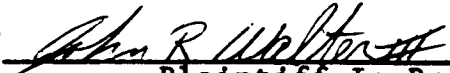
Enclosed for filing, please find Plaintiff's 42 U S.C. §1983 Civil Complaint for filing with this Honorable Court."

Also, request that Clerk's Office forward him an Application to proceed in Forma Pauperis in which he anticipate returning to this court along with up dated: Certificate with Print Out Sheets shortly there after."

Your Cooperation will be greatly appreciated."

Respectfully Submitted,

MR. JOHN WALTER, III, #430706

/s/ 
Plaintiff In Pro Per
COOPER STREET CORRECTIONAL FACILITY
3100 Cooper St.
Jackson, MI 49201

John R. Walter III 430706
Cooper Street Correctional Facility
3100 Cooper Street
Jackson, MI 49201

U.S. MARSHALS

PR
New

UNITED STATES District Court
For The Eastern District Of Michigan
Office Of The Clerk
Theodore Lavan, District Attorney
331 West Lafayette Blvd - 3rd Fl
Detroit, MI 48226

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U.S. DISTRICT COURT



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